

## INTRADEPARTMENTAL CORRESPONDENCE

July 8, 2020  
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OFFICE OF THE INSPECTOR GENERAL

**TO:** The Honorable Board of Police Commissioners

**FROM:** Chief of Police

**SUBJECT:** UNINTENTIONAL DISCHARGE (NON-TACTICAL) FID NO. 044-19

Honorable Members:

The following is my review, analysis, and findings for the Non-Tactical Unintentional Discharge (NTUD), Categorical Use of Force (CUOF), Force Investigation Division (FID) No. 044-19. On June 11, 2020, this case was presented to the Chair of the Use of Force Review Board (UOFRB) who considered the totality of the circumstances surrounding the incident and made recommendations as to the outcome.

I have reviewed and adopted the recommendations from the Chair of the UOFRB for this incident. I hereby submit my findings in accordance with Police Commission policy.

### SUMMARY<sup>1</sup>

On September 15, 2019, Officers M. Juatco, Serial No. 43456, and J. Chavez, Serial No. 40964, West Los Angeles (WLA) Patrol Division, were downloading their equipment from their police vehicle when Officer Juatco experienced a NTUD while removing the Patrol Rifle from the rifle rack within their police vehicle. Officers Chavez and Juatco were in full police uniform working in a marked black and white police vehicle.

At the time of incident Officer Juatco was a probationary officer with five months in a field assignment. Officer Chavez had been a Field Training Officer (FTO) for two years and ten months. Officer Chavez was Officer Juatco's assigned FTO and they had worked together for approximately two weeks.<sup>2</sup>

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<sup>1</sup> The summary and the investigation completed by FID for this incident have been provided to the Board of Police Commissioners.

<sup>2</sup> Officer Chavez completed FTO school on October 20, 2017.

According to Officer Juatco, at the start of their shift, he checked out a 40mm Less-Lethal Launcher (LLL), a Department issued Remington 870 shotgun, and Officer Chavez' privately owned Patrol Rifle from the WLA Community Police Station (CPS) kit-room.<sup>3</sup>

According to Officer Juatco, he brought the equipment he checked out of the kit room, along with Officer Chavez' Patrol Rifle to their assigned police vehicle where Officer Juatco began securing the items inside of the police vehicle.

According to Officer Juatco, he secured Officer Chavez' Patrol Rifle into the police vehicle's rifle rack and had been doing so since being assigned to work with Officer Chavez. Officer Juatco was not Department trained or certified to deploy a Patrol Rifle.

According to Officer Juatco, he was familiar with the handling of a Patrol Rifle as he had attended a two-day M16 Rifle manipulations course while enlisted in the United States Coast Guard over 10 years ago.<sup>4</sup> During the M16 Rifle training, Officer Juatco never fired a rifle but was taught how to chamber check, load, and unload the weapon system (**Additional Tactical Debrief Topics – Firearm Manipulations**).

According to Officer Chavez, he is a member of the Rifle Cadre and certified to deploy the Patrol Rifle. It was Officer Chavez' belief that Officer Juatco should have a basic understanding of how to manipulate the Patrol Rifle in the event of an emergency should the necessity arise, even though Officer Juatco had not attended the Los Angeles Police Department (LAPD) Rifle School Training (Rifle School) and was not Department certified to deploy the Patrol Rifle.

**Note:** The FID investigation revealed that Officer Chavez never registered his privately-owned Patrol Rifle with the Department, Firearms Inventory Tracking System (FITS) as required per Department policy, nor did Officer Chavez return his Department-issued Patrol Rifle after he privately purchased his Patrol Rifle as required (**Additional/Equipment – Firearm Manipulations, Registering Private Purchase Rifle with Department Armory and Returning Department Issued Equipment**).<sup>5</sup>

According to Officer Chavez, on the first day he and Officer Juatco worked together, Officer Chavez instructed Officer Juatco how to load, unload, secure and remove the Patrol Rifle from the interior rifle rack of the police vehicle. Officer Chavez provided five to ten minutes of instruction on the on the Patrol Rifle to Officer Juatco.

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<sup>3</sup> Officer Chavez was an active member of the rifle cadre and had completed rifle school on June 15, 2015. Per Department policy, a certified member of the rifle cadre can privately purchase a Patrol Rifle that meets Department specifications to use while on patrol, in lieu of a Department issued Patrol Rifle. On August 31, 2015, Officer Chavez privately purchased his Patrol Rifle (Colt, Model LE6920, Serial No. LE462333) for on-duty use.

<sup>4</sup> The Patrol Rifle and M16 Rifle are similar in that they are both gas operated, shoulder fired semi-automatic rifles.

<sup>5</sup> All firearms to be carried by Department personnel, while on or off-duty based on their employment status as peace officers, shall be verified by the Department Armory for Department approval and must be presented to the Department armory for inspection, verification and entry into the Department's FITS. *LAPD Manual, Volume 3, Section 610.20.*

According to Officer Chavez, he would not allow Officer Juatco to manipulate the Patrol Rifle without his supervision. Officer Chavez did not specifically instruct Officer Juatco not to handle his Patrol Rifle but believed it was *implied* since Officer Juatco was not directly tasked with securing the Patrol Rifle. Officer Juatco *took it upon himself* to secure and remove the Patrol Rifle from the rifle rack, on his own, on a regular basis. Officer Chavez stated he was not present every time Officer Juatco secured and/or removed the Patrol Rifle from the rifle rack of their police vehicle.<sup>6</sup>

**Note:** The FID investigation revealed that Officer Chavez was inside of the WLA CPS while Officer Juatco was securing their equipment in their police vehicle at the beginning of their shift and while Officer Juatco was removing their equipment at the end of their shift.

According to Officer Juatco, on the day of incident, when he began to secure the equipment inside of the police vehicle he observed that the Patrol Rifle already had a magazine inserted into the magazine well. Prior to placing the Patrol Rifle into the police vehicle's rifle rack, Officer Juatco conducted a chamber check, verified the firing chamber was empty and placed the Patrol Rifle into the rifle rack which was situated between the front seats of their police vehicle. Officer Juatco then activated the locking mechanism, thereby securing the Patrol Rifle in the rifle rack. Officer Juatco believed the Patrol Rifle was loaded according to Department standards with the safety engaged in the "On" position (**Additional Tactical Debrief Topics – Department-Wide Loading Standards**).

According to Officer Juatco, when he conducted a chamber check of the Patrol Rifle, he pulled the charging handle back and loaded a round into the chamber. Officer Juatco stated, *I think I racked it too far. I racked it back too far and it loaded a round into the chamber at start of watch.* Officer Juatco also stated he did not conduct a second chamber check (**Additional Tactical Debrief Topics – Department-Wide Loading Standards**).

According to Officer Chavez, upon entering the police vehicle at the start of their shift, Officer Juatco had already secured the Patrol Rifle in the rifle rack between the two front seats. Officer Chavez did not verify the condition of the Patrol Rifle or perform any manipulations.

**Note:** The FID investigation determined that Officers Juatco and Chavez worked their entire shift without deploying the Patrol Rifle and Officer Chavez did not ask Officer Juatco why he secured the Patrol Rifle in the rifle rack.

According to Officer Juatco, as he and Officer Chavez were preparing to end their shift, Officer Chavez advised Officer Juatco that he needed to finish some paperwork and went inside the

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<sup>6</sup> It is unknown how many times Officer Juatco secured and removed the Patrol Rifle from the rifle rack within the police vehicle during the time they worked together.

station. Officer Juatco advised Officer Chavez that he would log off the Mobile Data Computer (MDC) and download their equipment, which included the Patrol Rifle. Officer Juatco believed Officer Chavez trusted him to download all the equipment, including the Patrol Rifle, as he had done previously.

According to Officer Juatco, as he attempted to remove the Patrol Rifle from the rifle rack, he reached into the police vehicle and placed his left knee on the driver's side seat and his right arm on the driver's side seat head rest. Officer Juatco pressed the unlock/standby button which unlocked the rifle rack and pulled the securing lever upward to unlock the two securing clamps that hold the Patrol Rifle in place. Officer Juatco grabbed the handguard near the base of the barrel to remove it from the rifle rack and pulled it toward the driver's seat past the extended trigger post adapter that protrudes inside the trigger guard of the Patrol Rifle when secured. As Officer Juatco pulled on the Patrol Rifle, one round discharged from the Patrol Rifle as it was seated in the rifle rack. The discharged round travelled in an upward trajectory, exiting through the roof and emergency lightbar on top of the police vehicle (**Debriefing Point No. 1**).

According to Officer Juatco, he fell back into the seat and jumped out of the police vehicle. The Patrol Rifle remained standing upright and seated within the rifle rack inside of the police vehicle.

**Note:** The FID investigation revealed that one round had been loaded into the chamber of the Patrol Rifle and the safety had been disengaged by being placed in the "Off" position while seated in the rifle rack of the police vehicle. Additionally, the rifle rack mount system in the police vehicle had an extended trigger post adapter that protruded into the trigger guard of the Patrol Rifle when secured. Therefore, when the round was loaded into the chamber of the Patrol Rifle with the safety disengaged and the Patrol Rifle was placed into the rifle rack, there was an increased potential for a NTUD. The NTUD was the result of the safety being disengaged on the Patrol Rifle in conjunction with the trigger being pressed against the extended trigger post as the Patrol Rifle was being lifted from the rifle rack.<sup>7</sup>

The Patrol Rifle was inspected by a Department Armorer and was found to be in good mechanical condition. All safeties were in place and working properly. The trigger pull weight was within factory specifications.

According to Officer Chavez, he had left Officer Juatco at the police vehicle to download their equipment and was in the report writing room of the WLA CPS when he heard a loud sound.

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<sup>7</sup> On September 19, 2019, investigators assigned to FID and the Patrol Rifle Tactical and Shotgun Unit, were able to recreate the circumstances surrounding the NTUD. The reenactment used Officer Chavez' privately owned Patrol Rifle and confirmed that removing a Patrol Rifle from the Department approved rifle rack with the safety disengaged in the "Off" position could result in the trigger being depressed if it encountered the extended trigger post adapter. Personnel and Training Bureau verified that the design of the rifle rack is not flawed and operates as designed by the manufacturer.

Officers F. Ochoa, Serial No. 42810, and P. Kong, Serial 43251, WLA Patrol Division, were also in the report writing room with Officer Chavez. Officers Chavez and Ochoa walked outside to investigate.

According to Officer Chavez, he observed Officer Juatco standing at the driver's side of their police vehicle. Officer Juatco advised Officer Chavez, that he (Officer Juatco) had discharged a round from the Patrol Rifle while it was in the rifle rack. Officer Chavez advised Lieutenant R. Weise, Serial No. 35528, WLA Patrol Division, Watch Commander, of the NTUD.

According to the FID investigation, Lieutenant Weise was inside the watch commander's office at the time of the incident and heard a loud noise. Shortly afterward, Officer Chavez walked into the watch commander's office and advised Lieutenant Weise of the NTUD. Lieutenant Weise responded to the parking lot and checked on Officer Juatco who was not injured and did not complain of any injury.<sup>8</sup> Lieutenant Weise assessed the inside of the police vehicle and observed the damage to the police vehicle roof. Lieutenant Weise gathered information from Officer Juatco and returned to the watch commander's office to make notifications **(Additional/Equipment – Protocols Subsequent to CUOF)**.

According to Officer Chavez, he looked inside the police vehicle and observed the Patrol Rifle still within the rifle rack and the locking mechanism in the open position. Officer Chavez assumed the Patrol Rifle was loaded with a live round in the chamber and did not feel safe leaving the Patrol Rifle in that condition. Officer Chavez also observed that the safety of the Patrol Rifle was in the disengaged "Off" position. Officer Chavez removed the Patrol Rifle from the rifle rack and engaged the safety. After the Patrol Rifle had been removed and with the safety engaged, Officer Chavez removed the magazine from the Patrol Rifle magazine well and cleared the live round from the chamber. During this time, Officer Chavez recovered a discharged cartridge casing from the front passenger seat and removed it from the police vehicle. Officer Chavez brought the Patrol Rifle into the WLA CPS, placed it in a rifle carrying bag, and secured it in the kit room **(Additional/Equipment – Preservation of Evidence)**.

According to Officer Juatco, after Lieutenant Weise left their location to return to the watch commander's office, Officer Chavez directed him to remove the remainder of their equipment (40mm LLL, shotgun, and their equipment bags) from the police vehicle and return the equipment to the kit room **(Additional/Equipment – Maintaining the Integrity of the Crime Scene)**.

Officers Chavez and Juatco returned to the watch commander's office, where Lieutenant Weise monitored both officers. Sergeant Briones, Serial No. 31635, WLA Patrol Division, took over monitoring of Officer Juatco. Lieutenant Weise monitored Officer Chavez until relieved by FID investigators. Sergeant Briones obtained a Public Safety Statement (PSS) from Officer Juatco

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<sup>8</sup> Officer Juatco completed an Employee's Report (LAPD Form No. 15.07.00) documenting his proximity to the rifle being discharged without ear protection. Officer Juatco did not file an Injury On-Duty (IOD) claim for this incident.

and monitored Officer Juatco until relieved by FID investigators (**Additional/Equipment – Watch Commander’s Daily Report**).

According to the FID investigation, there were 27 live rounds recovered from the magazine of the Patrol Rifle and one discharged cartridge recovered from Officer Chavez.

## **FINDINGS**

**Tactics** – Tactical Debrief, Officer Juatco.

**Drawing/Exhibiting** – Does Not Apply.

**Unintentional Discharge** – Administrative Disapproval, Negligent Discharge, Officer Juatco.

## **ANALYSIS**<sup>9</sup>

### **Detention**

Does not apply.

### **Tactics**

Department policy relative to a Tactical Debrief is: *“The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance” (Los Angeles Police Department Manual, Volume 3, Section 792.05).*

Officer Juatco’s tactics were not a factor in this incident, therefore, they were not reviewed or evaluated. However, as Department guidelines require personnel who are substantially involved in a Categorical Use of Force incident to attend a Tactical Debrief, I have determined that it would be appropriate to recommend a Tactics finding of Tactical Debrief.<sup>10</sup>

During the review of this incident, the following Debriefing Point was noted:

- Firearm Manipulations – Basic Firearm Safety Rules

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<sup>9</sup> The analysis reflects my recommendations as supported by the preponderance of the evidence established by the investigation.

<sup>10</sup> A Tactical Debrief shall be conducted for all CUOF incidents within 90 calendar days of the conclusion of the BOPC review process. *LAPD Department Manual, Volume 3, Section 792.15.*



### Tactical De-Escalation

*Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

#### Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)*

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

At the time of this incident, Officers Juatco and Chavez were at the station and preparing to end their shift. Officer Chavez was inside the station while Officer Juatco was at their police vehicle preparing to download their equipment.

Officer Juatco was not engaged in a tactical operation at the time of the NTUD. Therefore, Officer Juatco was not evaluated on tactical de-escalation efforts.

### **Additional Tactical Debrief Topics**

**Firearm Manipulations** – Officer Juatco handled, manipulated, secured, unsecured, and prepared Officer Chavez’ Patrol Rifle to a “patrol ready” condition as he loaded their police vehicle.<sup>11</sup> Officer Chavez stated it was common practice to familiarize all his probationary officers with the functions of his Patrol Rifle by allowing them to manipulate it. Officer Juatco was not Department trained or certified to manipulate or deploy the Patrol Rifle. Officer Juatco is reminded that the handling and manipulation of a weapon system by Department personnel who are not trained or certified in its use, poses a risk to others as the weapon system should only be manipulated by Department personnel who are certified. I will direct this to be a topic of discussion during the Tactical Debrief.

**Department-Wide Loading Standards** – Officer Juatco unknowingly and improperly loaded the Patrol Rifle as a result of his lack of knowledge of the weapon system. The Department has

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<sup>11</sup> Patrol Ready is the loading configuration of a weapon system. The configuration is to have a fully loaded magazine with no round chambered.

established loading standards to ensure officer safety and patrol readiness at all times. Officer Juatco is reminded that the loading of a Patrol Rifle is critical and that Department personnel who are not trained or certified in its use, pose a risk to others as the weapon system should only be manipulated by Department personnel who are certified. I will direct this to be a topic of discussion during the Tactical Debrief.

### **Command and Control<sup>12</sup>**

*Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.*

*Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (LAPD, Training Bulletin, Volume XLVII Issue 4, July 2018).*

*Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (LAPD Supervisor's Field Operations Guide, Volume 2, Emergency Operations Guide).*

Lieutenant Weise responded to the WLA CPS parking lot and met with Officers Juatco and Chavez. Lieutenant Weise did not provide Officer Chavez with any direction regarding holding the scene for a CUOF investigation. Lieutenant Weise did not immediately separate Officers Juatco and Chavez, nor did he obtain a PSS from Officer Juatco. Lieutenant Weise returned to the watch commander's office and left Officers Juatco and Chavez unmonitored.

Officers Juatco and Chavez met with Lieutenant Weise in the watch commander's office after they had removed all of their equipment and secured it inside the kit room. Lieutenant Weise monitored both officers in the watch commander's office until he assigned Sergeant Briones to

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<sup>12</sup> Training Bulletin-Command and Control was adopted by the Department July 31, 2018.



assume monitoring responsibilities of Officer Juatco. Sergeant Briones obtained a PSS from Officer Juatco and monitored Officer Juatco until relieved by FID Investigators.

Overall, the actions of Lieutenant Weise were not consistent with Department supervisory training of an incident commander during a critical incident and did not meet my expectations.

The actions of Sergeant Briones were consistent with Department supervisory training and met my expectations of field a supervisor during a critical incident.

### **Tactical Debrief**

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvements could be made. A Tactical Debrief is the appropriate forum for involved personnel to discuss individual actions that took place during this incident.

I will direct Officers Juatco, Chavez and Lieutenant Weise to attend a Tactical Debrief that shall include discussions pertaining to the Debriefing Topics along with the following mandatory topics:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

### **General Training Update (GTU)**

Officer Juatco attended a GTU on September 26, 2019. All mandatory topics were covered, including Firearm Manipulations.

During the review of the incident, the following Debriefing Topics were noted:

#### **Debriefing Point No. 1      Unintentional Discharge**

*Firearms safety is critical. Officers must have the ability to draw, holster and manipulate weapons safely at all times, especially under stressful conditions. Firearms safety rules have been established based upon real life situations and are applicable at all times. Violations of any of the safety rules will not be tolerated.*

#### ***Basic Firearm Safety Rules***

1. *All guns are always loaded.*

2. *Never allow the muzzle to cover anything you are not willing to shoot.*
3. *Keep your finger off the trigger until your sights are aligned on the target and you intend to shoot.*
4. *Be sure of your target.*

*Officers are required to know and apply the Four Basic Firearm Safety Rules throughout their careers. These rules must be ingrained into an officer's natural thought process and become second nature. Any violation of the Four Basic Firearm Safety Rules may result in the unintentional discharge of a round. This is a serious matter with the potential of having tragic results. For administrative purposes, the unintended discharge of a weapon is classified into two categories:*

1. *Accidental discharge: An unintended discharge of a firearm as a result of a mechanical malfunction of the firearm, not involving the shooter.*
2. *Negligent discharge: An unintended discharge of a firearm as a result of a shooter not handling a weapon in a safe manner, violating one or more of the four basic firearm safety rules (Los Angeles Police Department Firearms Manual, July 2015).*

***Administrative Disapproval - Negligent Discharge.*** *Finding where it was determined that the unintentional discharge of a firearm resulted from operator error, such as the violation of a firearm safety rule (Los Angeles Police Department Manual, Volume 3, Section 792.05).*

**Officer Juatco** – 5.56 caliber, Patrol Rifle, single round, which traveled in an upward trajectory through the roof of the police vehicle and emergency lightbar on top of the police vehicle.

According to Officer Juatco, he was in the driver's seat of his police vehicle that was parked in the parking lot of the WLA CPS. Officer Juatco logged off the MDC, turned toward the Patrol Rifle secured in the rifle rack and disengaged the locking mechanism with his left hand. Officer Juatco grabbed the handguard near the base of the barrel and pulled the Patrol Rifle toward him in order to remove it from the rifle rack. Officer Juatco's attempted removal resulted in one round being discharged from the rifle while it was seated in the rifle rack as it was pointed upward. This fired projectile exited through the roof of the police vehicle and emergency light bar on the top of the police vehicle.

Officer Juatco recalled,

*At start of watch...As far as the rifle, I always – usually I check the chamber to make sure there's no round in.*

*I think I racked it too far. I racked it back too far and it loaded a round into the chamber at start of watch...and then afterwards I should have checked it again, but I didn't check it again. I got complacent, and I loaded a loaded rifle in the rack at start of watch.<sup>13</sup>*

*At end of watch I told my partner that I would get everything downloaded, I would log us off the computer, I would get all of our equipment out of it and put it into the kit room.*

*He said he had to finish some paperwork. He had to finish my weekly ratings. So he trusted me to go take care of whatever I had to take care of in the shop.<sup>14</sup>*

*I logged us off the computer. I loaded the DICV. And the first weapon that I wanted to unload or take out of the shop was the rifle actually. So as I unlocked the rack for the shotgun -- or not the shotgun -- I'm sorry -- the rifle, I grabbed it by this part right here [Describing the base of the barrel right in front of the magazine port].<sup>15</sup>*

*I grabbed it as I unsecured the lock on the rifle rack. As I tried to pull it out, that is when a round went off into the -- into the roof -- or the ceiling of the black and white.<sup>16</sup>*

The Chair of the UOFRB conducted a thorough review in evaluating the circumstances and evidence related to the NTUD. The Chair of the UOFRB determined that the NTUD was the result of operator error. Officer Juatco inadvertently loaded the Patrol Rifle and then placed the loaded Patrol Rifle into the vehicle's rifle rack with the Patrol Rifle's safety disengaged.

Based on the totality of the circumstances, the Chair of the UOFRB determined and I concur, that the NTUD was the result of operator error and the manipulation of a weapon system that Officer Juatco was not authorized to use. Additionally, Officer Juatco failed to adhere to the Department's Basic Firearm Safety Rules, and therefore, requires a finding of Administrative Disapproval (AD), Negligent Discharge.

## **INJURIES**

There were no injuries as a result of this NTUD.

## **ADDITIONAL/EQUIPMENT**

### **Officer Chavez**

**Firearm Manipulations** – Officer Juatco handled, manipulated, and prepared the Patrol Rifle to a patrol ready condition as he secured it in their police vehicle. Officer Chavez stated it was common practice to familiarize all his probationary officers with the

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<sup>13</sup> Officer Juatco, Page 24, Lines 2-9

<sup>14</sup> Officer Juatco, Page 12, Lines 11-17

<sup>15</sup> Officer Juatco, Page 12, Lines 18-23

<sup>16</sup> Officer Juatco, Page 13, Lines 10-14

functions of his Patrol Rifle by allowing them to manipulate the weapon system. Officer Juatco was not Department trained or certified to manipulate or deploy a Patrol Rifle, however, Officer Chavez allowed Officer Juatco to manipulate the weapon system. Additionally, Officer Chavez was not Department certified to provide instruction on the use of a Patrol Rifle.

**Registering Private Purchase Rifle with Department Armory** – Officer Chavez completed Rifle School on June 15, 2015. On August 31, 2015, Officer Chavez privately purchased his Patrol Rifle for on-duty use. At the time of the NTUD, the only rifle listed on Officer Chavez' FITS record was a Department-issued rifle. Officer Chavez' private purchase Patrol Rifle was never presented to the Department armory to be certified and entered in FITS.

**Returning Department Issued Equipment** – After the private purchase of his personal Patrol Rifle, Officer Chavez did not return the Department-issued Patrol Rifle as required, per the Department Agreement for Private Purchase of Patrol Rifle for Duty Use.

**Preservation of Evidence** – The FID investigation revealed that following the NTUD, Officer Chavez looked inside of the police vehicle and observed the Patrol Rifle in the rifle rack with the locking mechanism open. Officer Chavez assumed the Patrol Rifle was loaded with a live round in the chamber and did not feel safe leaving the Patrol Rifle in that condition. Officer Chavez observed that the safety was disengaged in the "Off" position. Officer Chavez removed the Patrol Rifle from the rifle rack and cleared the live round from the chamber. Officer Chavez brought the Patrol Rifle into the WLA CPS, secured it in his rifle bag, and returned it to the kit room. Additionally, Officer Chavez recovered a discharged cartridge casing from the front passenger seat and removed it from the police vehicle.

**Maintaining the Integrity of the Crime Scene** – Prior to the arrival of FID investigators, Officer Chavez directed Officer Juatco to remove the shotgun, 40mm LLL, and all other equipment from the police vehicle. Having been directed by Officer Chavez, Officer Juatco removed the remainder of the equipment from their police vehicle and returned it to the kit room.

The above identified issues concerning Officer Chavez were brought to the attention of Captain R. Goddard, Serial No. 32757, WLA Patrol Division, Commanding Officer, who directed Officer Chavez be removed from the Rifle Cadre, receive Divisional Training, along with the generation of a Supervisory Action Item (SAI). In addition, Captain J. Tom, Serial No. 32993, WLA Area, Commanding Officer, directed that Officer Chavez be issued a Notice to Correct Deficiencies. The Commanding Officer of Operations – West Bureau (OWB) and the Director of Office of Operations (OO) concurred with these actions. As such, I deem no further action is necessary

### **Lieutenant Weise<sup>17</sup>**

**Protocols Subsequent to CUOF** – Lieutenant Weise was inside the watch commander's office when he heard a loud noise, shortly afterward, he was notified by Officer Chavez of the NTUD. Lieutenant Weise proceeded to the parking lot of the WLA CPS and met with the officers. Lieutenant Weise verified what had occurred and that there were no injuries. Lieutenant Weise did not immediately separate Officers Juatco and Chavez, nor did he obtain a PSS from Officer Juatco. Lieutenant Weise did not give Officer Chavez any direction regarding holding the scene for the CUOF investigation. Lieutenant Weise returned to the watch commander's office to make the necessary notifications, and left Officers Juatco and Chavez unmonitored.

**Watch Commander's Daily Report** – Lieutenant Weise's Watch Commander's Daily Report, dated September 14, 2019, did not document the separation and monitoring of Officers Juatco and Chavez, nor did it indicate that a CUOF incident had occurred.

The above identified issues regarding Lieutenant Weise were brought to the attention of Captain Goddard, who provided Lieutenant Weise with divisional training and issued an Employee Comment Sheet, along with the generation of a SAI. The Commanding Officer of OWB and the Director of OO concurred with these actions. As such, I deem no further action is necessary.

### **AUDIO / VIDEO RECORDINGS**

**Digital In-Car Video System (DICVS)/Body Worn Video (BWV)** – Officer Juatco's NTUD occurred while he was on-duty, however, at the time of occurrence, Officer Juatco was in the parking lot at WLA CPS, preparing to remove his equipment from the vehicle as he was at the end of his shift. Therefore, DICVS and BWV were not activated during this incident.

**Surveillance Video** – A WLA CPS surveillance camera that was affixed to the west facing wall, was located approximately five feet above the ground. The camera was pointed in a southwest direction and captured the responding personnel. The video footage did not record any audio. The surveillance video was reviewed and was consistent with the FID investigation.

### **Chief's Direction**

In order to enhance the future performance of Department personnel, I have advised the Director, Office of Support Services, to ensure that all personnel review the Department video addressing unintentional discharges of firearms, dated January 15, 2020, along with the corresponding Chief of Police message. I am directing that during all rifle school training, and recertification instruction, there be a re-iteration and strong emphasis on the prohibition of handling the Patrol Rifle by personnel who are not certified. Additionally, I am directing that a TacOps Roll Call Briefing Sheet be drafted to address the safe handling and the inherent dangers of the Patrol Rifle

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<sup>17</sup> Lieutenant Weise retired from the Department on January 19, 2020.



while being secured and removed from the rifle rack within the police vehicle. The aforementioned unintentional discharges of firearms video from Training Division, Firearms Training Section, demonstrates the safe handling of firearms and reviews the Basic Firearm Safety Rules to prevent unintentional discharges through the emphasis of the safe handling of firearms.

Respectfully,

A handwritten signature in blue ink, appearing to be 'MICHEL R. MOORE', written over the printed name.

MICHEL R. MOORE  
Chief of Police

Date: \_\_\_\_\_

2-8-20